

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Michael R. Schramm

Reissue of U.S. Patent
No 5,908,057

Issued: June 01, 1999

For: Fluid Powered Bubble Machine
With Spill-Proof Capability

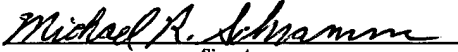
§
§
§
§
§
§
§
§
§
§

Group Art Unit _____

Examiner: _____

REISSUE DECLARATION

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

EXPRESS MAIL MAILING LABEL NUMBER: EJ 583 255 472 US DATE OF DEPOSIT: May 29 2001 I hereby certify that this correspondence is being deposited with the United States Postal Service as "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 CFR 1.10 on the date indicated above and is addressed to: The Commissioner of Patents and Trademarks, Washington, D.C. 20231.  Signature

Sir:

Declarant, Michael R. Schramm, an individual residing at 350 West 2000 South Perry, Utah 84302,
declares:

I am the owner of the entire right, title and interest in and to the above identified U.S. Patent;

I am the original and first inventor of the subject matter which is claimed and for which a
reissue patent is sought on the invention entitled "Fluid Powered Bubble Machine With Spill-Proof
Capability," the specification of which is attached hereto.

I have reviewed and understand the contents of the above identified specification, including
the claims. Upon information and belief, the original patent is partly inoperative by reason of the fact
that during the prosecution of the claims of the above identified patent, I claimed both more and less
than I had the right to claim in the patent. In particular, the claims of the above identified patent are
directed solely to a preferred embodiment of my invention, and as such, incorporate claim limitations
which are not necessarily dictated by the prior art. The original claims, in one instance, do not
encompass the full scope of my invention, notwithstanding my intent and desire broadly to claim my

09867320 053901
FO6250 02E29860

invention to the fullest extent allowed by law in light of the relevant prior art. In yet another instance, the claims are broader than what I now believe to be allowable in light of newly discovered prior art such as the 5,297,979 patent which was discovered after issuance of the 5,908,057 patent. The failure to claim the true scope of my invention is the error which this reissue application seeks to correct.

Upon information and belief, the error of failing to claim the true scope of my invention resulted from my failure during prosecution of the application fully to appreciate the full scope of the invention and the extent to which the existing claims covered the full scope. After issuance and during marketing of the US 5,908,057 patent, the applicant, having frequently pondered the coverage of the claims of the US 5,908,057 patent particularly in comparison to the then existing prior art (including all prior art cited on the face of 5,908,057), I came to the realization that much different breadth could have been obtained in the claims during prosecution. In particular, rather than focusing on differentiating the claimed subject matter merely by the particular container length and width proportions, or by a requirement that the device be hydraulically actuated, it was realized that other unique and enabling disclosed design features, such as rectangular funnel cross-sectional shape, the spill proof capability of the container, and a removably positioned bubble device, all could serve to differentiate the invention in a much less limiting fashion. Applicant avers that every such error arose without any deceptive intent on the part of the applicant.

The errors discussed above specifically occurred during the preparation of the original patent application and the prosecution of that patent application through issuance. The errors occurred in one instance upon reviewing the original application claims prior to the filing of the application. At that time the error occurred because I did not appreciate that the invention could be differentiated over the prior art by features such as rectangular funnel cross-sectional shape, the spill proof capability of the container and a removably positioned bubble device. Rather, at that specific time I focused on differentiating the claimed subject matter by a requirement that the device be hydraulically actuated.

Furthermore, the errors that are sought to be corrected in this reissue application also occurred during the prosecution of the patent, for example when I reviewed the claims, after receipt of the first office action, after receipt of the notice of allowance, and when I paid the issue fee. At this time during prosecution of the patent I again saw the scope of the claims but again I did not appreciate that the invention could be differentiated over the prior art by features such as rectangular funnel cross-sectional shape, the spill proof capability of the container and a removably positioned bubble device. Instead, I continued to focus on the same limitations related to differentiating the claimed subject matter by the requirement that the device by hydraulically actuated.

I, Michael R. Schramm, acknowledge the duty to disclose to the Patent and Trademark Office all information known to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Pursuant to 37 C.F.R. § 3.73, I hereby certify that I have never transferred any ownership interest in and to the above captioned patent, and that title remains in my name.

Please address all correspondence and telephone calls to the undersigned, Michael R. Schramm at 350 West 2000 South, Perry, UT 84302, Hm (435) 734-2599, Wk (801) 625-9268.

DATE: May 29, 2001

Respectfully submitted,


Michael R. Schramm